

PATENT MAINTENANCE  
DIVISION

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US PATENT & TRADEMARK  
OFFICE

Docket No. F05-185919M/MKO  
NGB.080REI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Kazuo KANAZAWA

Serial No.: 10/657,060

Group Art Unit: 3681

Filed: September 8, 2003

Examiner: Pang, Roger L.

For: TRANSMISSION DEVICE OF A FOUR-WHEEL DRIVE VEHICLE

ATTENTION: FINANCE DIVISION

P.O. Box 1450

Alexandria, VA 22313-1450

**REQUEST FOR REFUND**

Sir:

Applicants respectfully request a refund of the previously paid fees associated with obtaining the extensions of time and the filing of the Notice of Appeal, since these fees were incurred by Applicants as a result of Patent Office error in failing to properly update the correct status of the present application.

Applicants respectfully note that the status of the Notice of Allowance in the present application had not been updated in the U.S.P.T.O. Patent Application Retrieval (PAIR) website. Therefore, Applicants filed a Notice of Appeal and a Petition for a three-month Extension of Time on September 30, 2005 merely to ensure that the pendency of the present application was maintained until such time as the Notice of Allowance would be issued.

As a result, Applicant paid a fee of \$1,400.00 for a Notice of Appeal fee (\$500.00) and a Petition for a three-month Extension of Time fee (\$900.00) to preserve the pendency of the present application.

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However, it appears that the \$1,400.00 fee was not necessary to maintain the pendency of the application, and indeed, was filed due to the erroneous identification of the status of the present application on the U.S.P.T.O. Patent Application Retrieval (PAIR) website. Therefore, the \$1,400.00 fee is respectfully requested to be refunded since these fees were incurred by Applicants only as a result of Patent Office error in failing to properly update the correct status of the present application.

Accordingly, Applicant respectfully requests that the \$1,400.00 fee (for the unnecessary Notice of Appeal fee (\$500.00) and a Petition for a three-month Extension of Time fee (\$900.00)) be refunded to Attorney's Deposit Account No. 50-0481. Please credit any overpayment of fees to Attorney's Deposit Account number 50-0481.

#### **FACTS OF THE REQUEST**

Applicant summarizes the facts of this request below, for the Patent Office's kind consideration.

To summarize, a Second Amendment After-final under 37 C.F.R. § 1.116, a corrected supplemental oath/declaration under 37 C.F.R. § 1.175(b)(1), and a Statement of Substance of Interview, was filed on August 1, 2005, thereby overcoming the rejection under 35 U.S.C. § 251 and placing all of the pending claims (i.e., allowable claims 1-14 and 16-19) in condition for immediate allowance.

Also, Primary Examiner, Roger L. Pang issued an "official" Examiner's Interview Summary, which was mailed on August 18, 2005, which stated, in Part II, that the "*changes to the required new Oath were discussed and approved*" (emphasis added). The Interview Summary also stated, in Part III, that "*the interview directly resulted in the allowance of the application*" (emphasis added).

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However, in numerous telephone interviews and voice messages, Applicants' representative noted that the status of the Notice of Allowance in this case had not been updated in the U.S.P.T.O. Patent Application Retrieval (PAIR) website.

In each case, Primary Examiner Pang and Special Program Examiner Reese assured Applicants that the present application was in condition for allowance and that no further response was necessary to maintain the pending status of the present application. Particularly, Examiner Reese stated that the expiration of the six (6) month statutory period had been tolled (i.e., stopped) by the counting of the Notice of Allowance in the USPTO PALM system. Therefore, Examiner Reese stated that no further response from Applicants was necessary to maintain the pendency of the present application.

Applicants' representative again noted that the status of the Notice of Allowance in this case had not been updated in the U.S.P.T.O. Patent Application Retrieval (PAIR) website. Therefore, Applicants filed a Notice of Appeal and a Petition for a three-month Extension of Time on September 30, 2005 merely to ensure that the pendency of the present application was maintained until such time as the Notice of Allowance would be issued. As a result, Applicant paid a fee of \$1,400.00 for a Notice of Appeal fee (\$500.00) and a Petition for a three-month Extension of Time fee (\$900.00) to preserve the pendency of the present application.

Numerous additional telephone conferences have been conducted with Special Program Examiner, Randolph Reese, and the conduct of those interviews has been entered into the record by Applicants' previously filed Statements of Substance of the Interview.

In the telephonic interview conducted on March 13, 2006, Special Program Examiner, Randolph Reese, kindly informed Applicants that the erroneous status of the present application had been corrected in the USPTO PAIR system to correspond to the

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correct status shown in the USPTO PALM system. Particularly, the status of the present application has now been updated to properly indicate the status of the application as "Allowance Counted", as of the August 17, 2005, in accordance with the "official" Examiner's Interview Summary, which was mailed on August 18, 2005, and which indicated that the application is in condition for allowance. A copy of the PAIR Application Data dated March 13, 2006 indicating the correct status of the present application, is attached herewith.

Examiner Reese again agreed and confirmed that no further response is necessary from Applicants to maintain the pendency of the present application since the mailing of the official Examiner's Interview Summary on August 18, 2005, and the "allowed" status of the application, have tolled (i.e., stopped) the statutory time period for reply to the final Office Action.

Examiner Reese agreed and confirmed that it was not necessary for Applicants to file an Appeal Brief (or a Request for Continued Examination) to maintain the pendency of the present application. Examiner Reese agreed and confirmed that the present application currently is, and will remain, pending without a further response from Applicants.

The Examiner apologized for the Patent Office's delay in issuing the Notice of Allowance, which the Examiner stated has been caused by extensive "backlogs" in this Technology Center of the USPTO. The Examiner stated that additional personnel have been hired to expedite the issuance of the Notice of Allowances. The Supervisory Patent Examiner stated that the "official" Notice of Allowance for the present application will be issued in due course. However, the Supervisor speculated that the Notice of Allowance in

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this case will be mailed near the end of May or in early April, due to the extensive backlog in this Technology Center of the U.S. Patent Office.

In the telephonic interview, Applicants' representative again expressed the concern that this case has now been in condition for allowance since August 17, 2005, and that Applicants' reliance on the statements that the Notice of Allowance would be issued shortly have resulted in Applicants having to pay extension of time fees.

The Supervisory Patent Examiner apologized for the Patent Office's delay in issuing the Notice of Allowance and stated that, since the Examiner issued an official Interview Summary stating that the application is in condition for allowance, and since the PAIR system now properly indicates the status of the application as the "allowance" has been counted, no further response is necessary by Applicants. The Supervisory Patent Examiner specifically agreed and confirmed that the application will not go abandoned if no further response is filed by Applicants.

Examiner Reese also stated that Applicants may be entitled to a refund of the previously paid fees associated with obtaining the extensions of time and the filing of the Notice of Appeal, since these fees were incurred by Applicants as a result of Patent Office error in failing to properly update the correct status of the present application.

Applicants' representative stated that Applicants would file a Request for Refund of such fees for consideration by the appropriate Patent Office official.

Accordingly, Applicants submit this Request for Refund of such fees for consideration by the Patent Office.

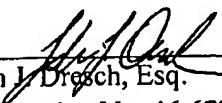
No fees are believed to be necessary. However, to the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. The Commissioner

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is hereby authorized to charge any deficiency in fees, including extension of time fees, or  
to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

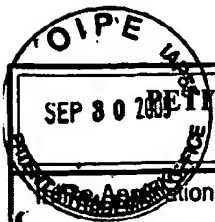
Respectfully Submitted,

Date: August 9, 2000

  
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Sean M. McGinn, Esq.  
Registration No. 34,386

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SEP 30 2005  
**PETITION FOR EXTENSION OF TIME TO FILE  
NOTICE OF APPEAL (Large Entity)**

Docket No.  
**F05-185919M/MI**

Applicant Of: **Kazuo KANAZAWA**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/657,060	September 8, 2003	Roger L. Pang	21254	3681	

Invention: **TRANSMISSION DEVICE OF A FOUR-WHEEL DRIVE VEHICLE**

**COMMISSIONER FOR PATENTS:**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of March 31, 2005 in the above-identified application.

*Date*

The requested extension is as follows (check time period desired):

☐ One month    ☐ Two months    ☒ Three months    ☐ Four months    ☐ Five months

from: March 31, 2005

*Date*

until: September 30, 2005 (1 mo. ext. pd 8-1-05)

*Date*

The fee for the extension of time is **\$900** and is to be paid as follows:

- ☒ A check in the amount of the fee is enclosed.  
☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **50-0481**  
☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Repln. Ref: 08/18/2006 SDIRETA1 0013364600  
DA# 500481 Name/Number: 10657060  
FC: 9204 \$1400.00 CR

Dated: **September 30, 2005**

**John J. Dresch, Esq., Reg. No. 46,672**  
**Sean M. McGinn, Esq., Reg. No. 34,386**

**McGINN INTELLECTUAL PROPERTY LAW  
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8321 Old Courthouse Rd., Suite 200  
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(703) 761-4100

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

*(Date)*

*Signature of Person Mailing Correspondence*

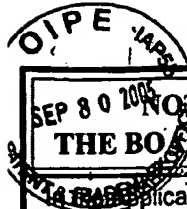
*Typed or Printed Name of Person Mailing Correspondence*

P14LARGE/REV07

Adjustment date: 08/18/2006 SDIRETA1  
10/03/2005 EAREGAY1 00000062 10657060  
02 FC:1253 -900.00 DP  
cc:

10/03/2005 EAREGAY1 00000062 10657060

02 FC:1253 900.00 DP

HF136011  
JFW**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO  
THE BOARD OF PATENT APPEALS AND INTERFERENCES (Large Entity)**Docket No.  
F05-185919M/MI

Application Of: Kazuo KANAZAWA

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/657,060	September 8, 2003	Roger L. Pang	21254	3681	

Invention: **TRANSMISSION DEVICE OF A FOUR-WHEEL DRIVE VEHICLE****COMMISSIONER FOR PATENTS:**

Applicant(s) hereby appeal(s) to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated **March 31, 2005** finally rejecting Claim(s) **1-14 and 16-19**

The fee for this Notice of Appeal is: **\$500.00**

- ☒ A check in the amount of the fee is enclosed.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **50-0481**
- ☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

  
SignatureDated: **September 30, 2005**

**John J. Dresch, Esq., Reg. No. 46,672**  
**Sean M. McGinn, Esq., Reg. No. 34,386**

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**(703) 761-4100**

Adjustment date: 08/18/2006 SDIRETA1  
10/03/2005 EAREGAY1 00000062 10657060  
01 FC:1401 -500.00 DP  
CC:

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

10/03/2005 EAREGAY1 00000062 10657060

P13LARGE/REV08

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